

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC-1" NEW DELHI

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER
AND MS. MADHUMITA ROY, JUDICIAL MEMBER

आ.अ.सं./I.T.A No.7964/Del/2018
निर्धारणवर्ष/Assessment Year:2012-13

Total Integrated Design (India) Pvt. Ltd. LGF-7A, Mandakini NRI Complex, Greater Kailash IV, New Dlehi.	बनाम Vs.	ITO Ward 25(3) C.R. Building, New Delhi.
PAN No. AAAC3502B		
अपीलार्थी Appellant		प्रत्यर्थी/Respondent

निर्धारितकीओरसे /Assessee by	Ms. Gunjan Jain, CA
राजस्वकीओरसे /Revenue by	Sh. Ved Prakash Mishra, Sr. DR

सुनवाईकीतारीख/ Date of hearing:	26.11.2020
उद्घोषणाकीतारीख/Pronouncement on	27.11.2020

आदेश /O R D E R

PER N.K. BILLAIYA, A.M.

1. This appeal by the assessee is preferred against the order of the CIT(A)–9, New Delhi dated 14.09.2018 pertaining to AY 2012-13. The grievance of the assessee reads as under:

- 1) *“Under the facts and circumstances of the case, the allegations made by the Ld. AO and upheld by Ld. First Appellate Authority are grossly arbitrary and bad at law as the Ld. AO made an addition of undisclosed income of Rs. 7,94,160/- without considering the fact that the TDS was deducted twice on the receipt/income of the said amount.*

- 2) *Under the facts and circumstances of the case, the allegations made by the Ld. AO and upheld by Ld. First Appellate Authority are grossly and bad at law as the Ld. AO made an addition of undisclosed income of Rs. 1,59,935/- without considering the fact that the TDS was deducted twice on the receipt/income of the said amount.*
- 3) *Under the facts and circumstances of the case, the allegations made by the Ld. AO and upheld by Ld. First Appellate Authority are against the facts of the case and bad at law as the Ld. AO made an addition of undisclosed income of Rs. 1,26,845/- based on the information as per 26AS without considering the fact that the client while filing TDS return inadvertently had entered amount of Rs. 4,31,273/- instead of Rs. 3,04,428/-.*
- 4) *Under the facts and circumstances of the case, the allegations made by the Ld. AO and upheld by Ld. First Appellate Authority are grossly arbitrary and bad at law as the Ld. AO made an addition of undisclosed income of Rs. 1,85,394/- based on the information as per 26AS without considering the fact that the said income pertained to the next year and was duly accounted for in the ITR of the following year.*
- 5) *Under the facts and circumstances of the case, the allegations made by the Ld. AO and upheld by Ld. First Appellate Authority are grossly arbitrary, baseless and bad at law as the Ld. AO made an addition of undisclosed income of Rs. 2,06,810/- due to an inadvertent mistake made by the assessee.*
- 6) *Under the facts and circumstances of the case, the allegations made by the Ld. AO and upheld by Ld. First Appellate Authority are grossly arbitrary, baseless and bad at law as the Ld. AO made an addition of undisclosed income of Rs. 3,845/-*

based on the information as per 26AS without considering the fact that this bill was issued for reimbursement of expenses and the same was duly accounted for.

7) Under the facts and circumstances of the case, the orders passed by the Ld. First Appellate Authority are factually incorrect and without considering the evidence/documents produced before the ld. CIT(A).”

2. Representatives of both the sides were heard at length. Case records carefully perused.

3. The cursory look at the grievance of the assessee would show that all the additions have been made on the basis of information as per form 26AS. The Counsel for the assessee before us vehemently stated that even though reconciliation was filed before the AO the AO did not care to examine the details and made the addition. It is the say of the Counsel that the name of the tax deductor was changed and the tax deductor cancelled the earlier entries in form 26AS and uploaded new entries in the new name and, therefore, two entries are reflected in form 26AS for the same transaction hence, resulted into the duplicacy of the entries.

4. We have carefully gone through the relevant documentary evidences. We find that the entire addition has been made on mismatch of entries in form 26AS, whereas the reason for the same has been successfully explained by the assessee.

5. We are of the considered view that the AO and the First Appellate Authority without applying their mind has mechanically made the

additions on the basis of entries found in form 26AS without giving any weightage to the reconciliation/explanation by the assessee.

6. In the interest of justice and fair play, we direct the AO to examine carefully the explanation of the assessee and decide the issue afresh as per the provisions of law. For the sake of repetition, we make it clear that the AO should apply his mind in considering the explanation of the assessee in respect of the mismatch. With these directions the issues restored back to the file of the AO and the appeal is treated as allowed for statistical purpose.

7. The decision announced in the open court in the presence of Representatives of both sides.

**Sd/-
(MADHUMITA ROY)
JUDICIAL MEMBER**

**Sd/-
(N.K. BILLAIYA)
ACCOUNTANT MEMBER**

Dated: 27th November, 2020
**Kavita Arora, Sr. P.S.*

Copy of order sent to- Assessee/AO/Pr. CIT/ CIT (A)/ ITAT (DR)/Guard file of ITAT.

By order

Assistant Registrar, ITAT: Delhi Benches-Delhi